

1		BEFORE THE	
2		ILLINOIS COMMERCE COMMISSION	
3	IN THE MATTER OF:)	
4	Union Pacific Railroad Company,)	
5	a Delaware Corporation,)	No. T15-0149
6	Petitioner,)	Consolidated
7	V.)	w/
8	City of Geneva, Illinois, a)	No. T16-0024
9	municipal Corporation in Kane County,)	
10	Illinois,)	
11	Respondent.)	
12	Petition for an Order of the Illinois)	
13	Commerce Commission for authorization)	
14	To modify the existing (1) Western)	
15	Avenue highway-rail grade crossing)	
16	Of the Union Pacific Railroad)	
17	Company's tracks (AAR/DOT #174 998C,)	
18	railroad milepost 36.09), located in)	
19	the City of Geneva, Kane County,)	
20	Illinois, on the Geneva Subdivision)	
21	and (2) 3rd Street highway-rail grade)	
22	crossing of the Union Pacific)	
	Railroad Company's tracks (AAR/DOT)	
	#174 991E, railroad milepost 35.49,)	
	located in the City of Geneva, Kane)	
	County, Illinois, on the Geneva)	
	Subdivision to accommodate the)	
	installation of an additional)	
	railroad track at said Western Avenue)	
	and 3rd Street highway-rail grade)	
	crossings on said Geneva Subdivision,)	
	and authorizing the reconfiguration)	
	of the existing crossing surface,)	
	existing roadway surface and the)	
	existing warning devices.)	

1 Union Pacific Railroad Company,)
 a Delaware Corporation,)
 2)
 Petitioner,)
 3 V.)
)
 4 Illinois Department of Transportation)
 and City of Geneva, Illinois, a)
 5 municipal Corporation in Kane County,)
 Illinois,)
 6)
 Respondents.)
 7)
 Petition for an Order of the Illinois)
 8 Commerce Commission for authorization)
 to modify and expand the existing)
 9 Grade Separation of the Union Pacific)
 Railroad Company's tracks over)
 10 Illinois State Route 31/First Street)
 (the "Route 31 Grade Separation)
 11 Crossing") (AAR/DOT #174990X,)
 railroad milepost 35.37), located in)
 12 the City of Geneva, Kane County,)
 Illinois, on the Geneva Subdivision,)
 13 and authorizing reconfiguration of)
 the Route 31 Grade Separation)
 14 Crossing, and related reconfiguration)
 of the retaining walls and existing)
 15 roadway surface (the "Route 31 Grade)
 Separation Crossing Project").)
 16)
 Chicago, Illinois
 17 September 27, 2016
 18)
 Met pursuant to notice at 10:00 a.m.
 19)
 BEFORE:
 LATRICE KIRKLAND-MONTAQUE, Administrative Law Judge.
 20)
 21)
 22)

1 APPEARANCES:

2 UNION PACIFIC RAILROAD COMPANY, by
3 MR. MACK HARRICE SHUMATE, JR.
4 101 North Wacker Drive, Suite 1920
Chicago, Illinois 60606-6677
(312) 777-2055

5 Appearing on behalf of Union Pacific
Railroad Company;

6 RADOVICH LAW OFFICE PC, by
7 MR. CHARLES A. RADOVICH
22 South 1st Street
Geneva, Illinois 60134
8 (630) 232-4511

9 Appearing on behalf of the
City of Geneva;

10 ILLINOIS DEPARTMENT OF TRANSPORTATION, by
11 MR. LAWRENCE D. PARRISH
69 West Washington Street, Suite 2100
Chicago, Illinois 60601
12 (312) 793-2965

13 Appearing on behalf of Illinois
Department of Transportation
(IDOT);

14 ILLINOIS COMMERCE COMMISSION, by
15 MR. BRIAN M. VERCROYSSSE
527 East Capitol Avenue
16 Springfield, Illinois 62701
(312) 636-7760

17 Appearing on behalf of the Staff of
the Illinois Commerce Commission.

18

ALSO PRESENT:

19 Mr. Richard D. Conrath, Benesch
Mr. Richard Babica, Geneva Public Works Department
20 Ms. Claire E. Anderson, Union Pacific Railroad
Mr. Sean D. Collier, Union Pacific Railroad

21

SULLIVAN REPORTING COMPANY, by
22 Brad Benjamin, CSR
License No. 084-004805

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I N D E X

<u>Witnesses:</u>	<u>Direct</u>	<u>Cross</u>	<u>Re-</u> <u>direct</u>	<u>Re-</u> <u>cross</u>	<u>By</u> <u>Examiner</u>
None.					

E X H I B I T S

<u>Number</u>	<u>For Identification</u>	<u>In Evidence</u>
Geneva Exhibit No. 1	29	31

1 JUDGE KIRKLAND-MONTAQUE: By the power vested
2 in me by the State of Illinois and the Illinois
3 Commerce Commission, I now call Consolidated Dockets
4 No. T15-0149, and that matter is the Union Pacific
5 Railroad Company versus the City of Geneva, a
6 municipal Corporation in Kane County. And that, as I
7 mentioned, is consolidated with T16-0024, and the
8 caption of that case is the Union Pacific Railroad
9 Company versus the Illinois Department of
10 Transportation and the City of Geneva.

11 Let's have appearances please, and we
12 we shall start with Union Pacific.

13 MR. SHUMATE: My name is Mack, M-A-C-K,
14 Shumate, S-H-U-M-A-T-E. I'm an attorney for the
15 Union Pacific Railroad Company. Our offices are at
16 101 North Wacker Drive, Suite 1920, Chicago, Illinois
17 60606, telephone number, area code (312) 777-2055.

18 JUDGE KIRKLAND-MONTAQUE: Okay. Geneva?

19 MR. RADOVICH: My name is Charles Radovich,
20 R-A-D-O-V-I-C-H. I'm City Attorney for the City of
21 Geneva. Our corporate offices are located at
22 22 South 1st Street, Geneva, Illinois 60134. My

1 office phone number is (630) 232-4511.

2 JUDGE KIRKLAND-MONTAQUE: Thank you.

3 IDOT?

4 MR. PARRISH: Good morning, your Honor,
5 Lawrence Parrish, I'm with the Office of Chief
6 Counsel, the Illinois Department of Transportation.
7 My address: 69 West Washington, Chicago, Suite 2100,
8 telephone number (312) 793-2965.

9 JUDGE KIRKLAND-MONTAQUE: Staff?

10 MR. VERCRUYSSSE: Thank you, your Honor, good
11 morning.

12 Representing the staff of the Illinois
13 Commerce Commission, Brian Vercruysse, V-as in
14 Victor, E-R-C-R-U-Y-S-S-E, phone number
15 (312) 636-7760.

16 Thank you.

17 JUDGE KIRKLAND-MONTAQUE: All right. Today's
18 date is a status hearing, so I'm going to ask
19 Mr. Shumate to give us a brief update on where this
20 case stands.

21 MR. SHUMATE: Thank you, your Honor.

22 The Union Pacific has filed a petition

1 for its triple main line project on the Geneva
2 subdivision, and this part of the project involves
3 the City of Geneva, two local road crossings, and
4 also one grade separation, which is the road
5 underneath that's controlled by the Illinois
6 Department of Transportation, Route 31.

7 The project is now 100 percent
8 complete with regard to the design, and the Union
9 Pacific is prepared to go forward with its testimony
10 regarding the matter. However, there are some open
11 matters with the Village of Geneva that they've
12 informed us with regard to a document that I received
13 on September 15th, 2016. It's a letter that was
14 addressed by the City of Geneva to Alfred Benesch,
15 our engineering consultant for the entire project.

16 The Union Pacific's staff plus our
17 consultant engineer, they're in the process of making
18 a response to the open items that are detailed on
19 that letter, and that should take place within the
20 next couple of weeks. And that would -- hopefully
21 everything will be resolved within -- certainly 30
22 days, which would allow us to go forward with a

1 hearing, let's say sometime in the first week of
2 November.

3 JUDGE KIRKLAND-MONTAQUE: And we should
4 schedule that as an evidentiary hearing?

5 MR. SHUMATE: Yes. I would ask that that would
6 be scheduled as an evidentiary hearing at a date that
7 is mutually convenient to everybody that's a party,
8 including the -- yourself, your Honor.

9 JUDGE KIRKLAND-MONTAQUE: Okay. Thank you.

10 Mr. Radovich, did you want to add
11 something?

12 MR. RADOVICH: Thank you, your Honor.

13 Mr. Shumate's summation is correct.
14 The City did tender to Union Pacific's consulting
15 engineer, and then subsequently to Mr. Parrish and I
16 believe other members of the Illinois Department of
17 Transportation staff, a memorandum that's penned by
18 Richard Babica, who's the City's Director of Public
19 Works.

20 Many of the items in this multi-paged
21 memorandum are engineering items which have been
22 resolved or are close to resolution. I just would

1 note to your Honor that the first two pages are the
2 substantive -- real substantive matters that are
3 outstanding in Items 1 through 16, basically, and we
4 think that many of these can be resolved. We are
5 missing certain documents such as storm water
6 management, design data or submittal -- or a full
7 storm water design submittal. And one of the items
8 that is also outstanding for resolution is the
9 pedestrian roadway resolution to -- from the train
10 station to what we call the City's overflow parking
11 lot, which is on the south side of Illinois Route 31,
12 and that is an outstanding issue.

13 So we would ask that the Railroad
14 submit responses, as they've indicated, to the City
15 shortly, and we concur in asking for the hearing to
16 be extended until that November date.

17 JUDGE KIRKLAND-MONTAQUE: All right. Is there
18 anything anyone would like to add before I set the
19 next date?

20 (No response.)

21 JUDGE KIRKLAND-MONTAQUE: Okay. Given that, I
22 am going to continue this for an evidentiary hearing.

1 MR. RADOVICH: I was going to -- I'm sorry,
2 Judge.

3 I was going to tender this --

4 JUDGE KIRKLAND-MONTAQUE: Okay.

5 MR. RADOVICH: -- for the record, if you don't
6 mind.

7 MR. SHUMATE: No objection from the Railroad.

8 MR. RADOVICH: Okay. It's the same document
9 that Mr. Shumate referenced earlier.

10 JUDGE KIRKLAND-MONTAQUE: All right. We'll
11 call this Geneva's Exhibit 1, and it is now admitted
12 to the record.

13 (Geneva Exhibit No. 1 was
14 admitted into evidence.)

15 JUDGE KIRKLAND-MONTAQUE: And now, as I was
16 saying, this matter will be --

17 MR. SHUMATE: Oh, your Honor, there's one other
18 point.

19 In order to -- for all of us to be
20 able to give all the evidentiary evidence that's
21 going to be needed by November 2nd, we need to have
22 some assurances that IDOT will be able to provide us

1 with their comments to the plans.

2 And how soon did you need that? By

3 what date did you need it?

4 MS. CLAIRE ANDERSON: The next couple weeks if

5 we have enough time to respond.

6 MR. RICHARD D. CONRATH: Yeah. Mid-October at

7 the latest.

8 MR. SHUMATE: By mid-October?

9 JUDGE KIRKLAND-MONTAQUE: You need IDOT to

10 respond by mid-October?

11 MR. SHUMATE: Yes, ma'am.

12 JUDGE KIRKLAND-MONTAQUE: Is that possible,

13 Mr. Parrish?

14 MR. PARRISH: I believe it is. The plans have

15 been submitted to our engineering staff and I spoke

16 with them recently. They hadn't completed it, but

17 they were in the process of doing so, so I think that

18 could be done.

19 JUDGE KIRKLAND-MONTAQUE: All right. So...

20 MR. VERCRUYSSSE: Friday is the 14th, just as a

21 reference point. Is that October 14th?

22 MR. SHUMATE: Why don't you take the weekend on

1 Monday.

2 MR. VERCRUYSSSE: So October 17th?

3 MR. SHUMATE: Yeah.

4 JUDGE KIRKLAND-MONTAQUE: And that would be a
5 date by which IDOT --

6 MR. SHUMATE: Yeah.

7 MS. CLAIRE ANDERSON: If we don't have them by
8 then --

9 MR. RICHARD D. CONRATH: Continue it by that
10 date.

11 JUDGE KIRKLAND-MONTAQUE: Okay. So obviously
12 if things are not in order by the November 2nd
13 date --

14 MR. SHUMATE: We will let you know.

15 JUDGE KIRKLAND-MONTAQUE: -- you can file a
16 motion to continue --

17 MR. SHUMATE: Yes, we will.

18 JUDGE KIRKLAND-MONTAQUE: -- and we'll go from
19 there.

20 So in the meantime, this matter will
21 be continued to November 2nd, 2016, at 10:00 a.m.
22 here in Chicago. So we will reconvene at that time.

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Thank you very much.

(Geneva Exhibit No. 1 was
marked for identification.)
(Whereupon the
above-referenced matter was
continued to November 2,
2016, at 10:00 a.m.)